**THE HON'BLE MR JUSTICE C.V.RAMULU**

**WRIT PETITION NO : 7680 of 1998**

**DATED 04-08-2005**

Between:

1 The Engineer-in-Chief; I & CAD Department,
Errammanzil Hyderabad
2 The Supertending Engineer;ID N.S.L.C. O&M Circle; Tekulapalli
Khammam District

**..... PETITIONERS**

AND

1 M.Narayana S/o Kistaiah
C/o Seetharamulu, Village & Post : Ammapalem
District Khammam
2 Presiding Officer Industrial Tribunal-cum-Labour Court,
Warangal.

**.....RESPONDENTS**

**THE HONOURABLE SRI JSTICE C.V.RAMULU**

**W.P.NO.7680 OF 1998**

**ORDER:**

This writ petition is filed by the Engineer-in-Chief I.&C.A.D. Department, Erramanzil,Hyderabad, and another being aggrieved by the Award passed by the Industrial Tribunal-cum-Labour Court at Warangal in I.D.No.147 of 1993 dated 9-5-1997, wherein the petition filed by the respondent No.1-workman under Section 2A(2) of Industrial Disputes Act,1947 (for short ' the Act') was decided in favour of workman and the petitioners herein were directed to reinstate the workman into service with continuity of service, but without any back wages.

It is the case of the petitioner-management that the first respondent was engaged as Man Mazdoor on daily wage basis with effect from 10-10-1977 in the erstwhile Andhra Pradesh State Construction Corporation Limited. His services were disengaged with effect from 6-8-1979, as there was no work due to letting of water into the canal along with N.M.R, Man Mazdoors, who were on the rolls as on 1-8-1979. Further while effecting retrenchment, the petitioners have scrupulously followed the provisions under Section 25 F,G and H of the Act. The services of the first respondent were never regularized. No junior to the first respondent was retained without effecting retrenchment. Since compensation as required under Section 25-F of the Act was paid, the petition under Section 2A(2) of Industrial Disputes Act itself is not maintainable. The Labour Court has erred in coming to the conclusion that the petitioners have not complied with the provisions of Section 25 F of Industrial Disputes Act without there being any cogent and acceptable evidence before it. Respondent No.1 was not appointed to the post in accordance with the rules but engaged on the basis of need of the work and the temporary employees working on daily wages are not entitled for protection under Section 25 F of the Act. The disengagement from the service cannot be construed as retrenchment under the Act. Therefore, the Award passed by the Labour Court is liable to be set-aside.

A detailed counter affidavit has been filed by the respondent-workman denying the allegations made by the petitioner-management and justifying and supporting the award passed by the Industrial Tribunal-cum-Labour Court.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the Award passed by the Industrial Tribunal-cum-Labour Court at Warangal and other material made available on record.

At the outset, I am of the opinion that the Labour Court has not committed any error in coming to the conclusion that the petitioner-management has violated the provisions of Section 25-F of the Industrial Disputes Act while terminating the services of respondent No.1. The petitioner-management having asserted that they have paid compensation as required under Section 25F of the Industrial Disputes Act, did not place any material whatsoever before the Labour Court to prove their contention. Under those circumstances, the Labour Court came to the conclusion that the termination order passed by the petitioner-management on 6-8-1979 is in violation of Section 25-F of the Industrial Disputes Act. Therefore, the petitioner is entitled for reinstatement into service. However, in view of the delay caused on the part of the respondent-workman in approaching the Labour Court, it has denied the wages from the date of removal to the date of reinstatement. Therefore, the Award passed by the Labour Court in the teeth of the finding that there is gross violation of the provisions of Section 25 F of the Act cannot be said to be either arbitrary or illegal. The writ petition is devoid of merit and is liable to be dismissed.

The writ petition is, accordingly, dismissed. No order as to costs.

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C.V.RAMULU,J

04-08-2005

Stp